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## **DEPARTMENT OF LABOR**

### **Office of Workers' Compensation Programs**

#### **Expectations for Representatives Appearing Before the Office of Workers' Compensation Programs**

**AGENCY:** Office of Workers' Compensation Programs, Labor.

**ACTION:** Notice of expectations of conduct.

**SUMMARY:** The Office of Workers' Compensation Programs (OWCP) is adopting a set of expectations regarding the conduct of representatives who interact with OWCP staff. The intent is to respond to inappropriate behavior on the part of a small percentage of representatives who participate in the benefit programs administered by OWCP.

**DATES:** The set of expectations was signed October 6, 2022.

**FOR FURTHER INFORMATION CONTACT:** Nancy Griswold, Deputy Director, OWCP at

[Griswold.Nancy.J@dol.gov](mailto:Griswold.Nancy.J@dol.gov); (202) 604-5776.

**SUPPLEMENTARY INFORMATION:** The Office of Workers' Compensation Programs (OWCP) administers benefit programs for workers covered by the Black Lung Benefits Act, Longshore and Harbor Workers' Compensation Act, Federal Employees' Compensation Act, and the Energy Employees Occupational Illness Compensation Program Act. Public servants who process benefits claims within each of these programs are required to interact with the public on a daily basis. While the vast majority of individuals who interact with Federal workers during the processing of claims do so in an appropriate manner, there have been recurring instances of improper and abusive conduct directed at OWCP's employees by a small minority of individuals representing parties/claimants. Because such inappropriate conduct can interfere with claims processing and impair the decision-making process, OWCP has adopted a set of

expectations for the behavior of individuals who interact with its employees. Moreover, OWCP has a responsibility to prohibit discrimination against or harassment of any OWCP employee because of race, color, sex (including sexual harassment and pregnancy, and related conditions), sexual orientation, gender identity, ethnicity or national origin, religion, age, genetic information, disability, or in retaliation for engaging in protected Equal Employment Opportunity (EEO) activity (collectively, protected characteristics). OWCP is issuing these expectations both in response to instances of improper and abusive conduct but also to generally clarify and ensure a common understanding of how party/claimant representatives should conduct themselves in dealings with OWCP. In doing so, OWCP seeks to maintain an environment of civility that will facilitate the claims process and improve the working environment for its employees.

OWCP adopts this set of expectations under Secretary's Order 10-2009, 74 FR 58834.

**Expectations for Representatives Appearing Before the Office of Workers' Compensation Programs**

(a) *Purpose and scope.* OWCP strives to treat all claimants, parties and their representatives with courtesy and respect, and prohibit discrimination and/or harassment against their employees based on protected characteristics. We expect that claimants, parties and their representatives will extend that same courtesy and respect to OWCP employees.

In light of this expectation, all attorneys and other persons acting on behalf of a party/claimant should both provide competent assistance to the party/claimant and recognize OWCP's authority to lawfully administer the process. In particular, we expect all representatives to adhere to the following guidelines.

(b) *Expectations of Affirmative Conduct.* OWCP expects that a representative will:

(1) Be truthful in their dealings with claimants, other parties, and with OWCP and its programs.

(2) Act with reasonable promptness to assist the party/claimant with obtaining the information or evidence that must be submitted under OWCP's regulations and forwarding the information or evidence to OWCP for consideration as soon as practicable.

(3) Assist the party/claimant in complying, as soon as practicable, with OWCP's requests for information or evidence at any stage of the administrative decision-making process in their claim.

(4) Aid in the efficient, fair, and orderly conduct of the administrative decision-making process by:

(i) Providing competent representation. Competent representation requires the knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

(ii) Acting with reasonable diligence and promptness in representing a party/claimant. This includes providing prompt and responsive answers to OWCP's requests for information concerning a claim.

(iii) Communicating promptly with the party/claimant, including reasonably informing them of all matters concerning the representation, consulting with them on an ongoing basis while representing them, and responding to their reasonable requests for information.

(5) For business conducted with OWCP electronically, conducting such business at the times and in the manner prescribed by OWCP.

(6) Ensuring that all of the representative's employees, assistants, partners, contractors, and any other person assisting the representative on claims for which the representative has been appointed, are aware that they are expected to comply with these guidelines.

(c) *Unacceptable Conduct.* Engaging in disrespectful and obstructive behavior does not benefit parties/claimants and interferes with proper administration of the claims process. We therefore expect that a representative will not:

- (1) Undertake representation in any matter when they are legally barred from doing so.
- (2) Communicate with OWCP or other parties or representatives in a threatening or disrespectful manner. OWCP may restrict the communication methods of a representative who does not meet this expectation.
- (3) In any manner or by any means, threaten, coerce, intimidate, deceive or knowingly mislead a party/claimant or prospective party/claimant regarding the availability of benefits or other rights under the relevant Act.
- (4) Willfully misleading the party/claimant or prospective party/claimant about the representative's services and qualifications.
- (5) Knowingly make or present false or misleading oral or written statements, evidence, assertions, or representations about a material fact or law.
- (6) Through their own actions or omissions, unreasonably delay or cause to be delayed the processing of a claim.
- (7) Divulge the party/claimant's confidential information outside of the claims adjudication process without their consent.
- (8) Attempt to influence, directly or indirectly, the outcome of a decision, determination or other administrative action by:
  - (i) Threatening harm (either physical or otherwise) to a presiding official, OWCP employee, or other person who is or may reasonably be expected to be involved in the administrative decision-making process; or

- (ii) Offering anything of value to a presiding official, OWCP employee, or other person who is or may reasonably be expected to be involved in the administrative decision-making process.

OWCP will report any such threats or offers to appropriate authorities.

(9) Engage in actions or behavior that impede the fair and orderly conduct of administrative proceedings, including:

- (i) Repeatedly being absent from, or persistently tardy at, scheduled proceedings without good cause;
- (ii) Disrupting proceedings or obstructing the adjudicative process by:
  - (A) Directing threatening or intimidating language, gestures or actions at any person involved in the process.
  - (B) Providing misleading information or misrepresenting facts that affect how OWCP processes a claim, such as the place of residence or mailing address of a party/claimant.
  - (C) Communicating with OWCP staff or adjudicators outside the normal course of business or other prescribed procedures in an attempt to inappropriately influence the processing or outcome of a claim.

(10) Refusing to comply with any of our rules or regulations.

(11) Requesting or assisting another person to violate our rules or regulations.

(12) Advising any party/claimant or person not to comply with any of our rules or regulations.

(13) Engage in actions, behavior, or conduct that is discriminatory or harassing, and based on protected characteristics.

Signed at Washington, D.C., on October 6, 2022.

**Christopher J. Godfrey,**

*Director,*

*Office of Workers' Compensation Programs.*

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